



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. W. v Canada Employment Insurance Commission*, 2020 SST 121

Tribunal File Number: GE-19-4375

BETWEEN:

J. W.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Glen Johnson

HEARD ON: January 30, 2020

DATE OF DECISION: February 3, 2020

DECISION

[1] The appeal is allowed. The Claimant has shown just cause to leave her job. She did not have reasonable alternatives to leaving her job when she did. This means she is not disqualified from receiving employment insurance (EI) benefits.

OVERVIEW

[2] The Claimant quit her job while working on a temporary placement in an optometry business. She applied for EI benefits.

[3] She claims that she had just cause to quit her job due to harassment, intimidation and bullying by management and other staff. She claims that although she had only worked there for about 1 month, the work environment became toxic to the point it was intolerable for her and she felt that she had no reasonable alternative but to leave her employment.

[4] The Commission looked at the Claimant's reasons for leaving. They decided that she voluntarily left her employment without just cause. They disqualified her from getting EI benefits. The Commission found that the Claimant has failed to prove that she had no reasonable alternatives but to leave her job. The Commission says that the Claimant could have continued working until she secured new employment.

[5] I find that the Claimant voluntarily left her job. She has just cause to leave because it is unreasonable to expect her to continue working at a toxic work environment where she felt harassed, bullied and intimidated to a point that she felt it was intolerable.

PRELIMINARY ISSUE

[6] The Claimant did not attend the hearing set for January 30, 2020 or contact the Social Security Tribunal to let them know that she would not attend.

[7] On January 13, 2020, the Claimant got the Notice of Hearing by Purolator to her home address.

[8] If a party fails to appear at a hearing, I can go ahead with the hearing even though they are not present if I feel that the party got notice of the hearing (subsection 12(1), *Social Security Tribunal Regulations*).

[9] I am satisfied that the Claimant got notice of the hearing by Purolator, so I went ahead with the hearing without her present.

ISSUE

[10] I must decide whether the Claimant is disqualified from getting payment of EI benefits because she voluntarily left her job without just cause. I must first decide if she voluntarily left her job. I then have to decide whether she had just cause for leaving.

ANALYSIS

Did the Claimant voluntarily leave her job?

[11] Yes; I find that the Claimant voluntarily left her job. The Claimant and her employer say that she quit her job. There is no file information to show the opposite.

Did the Claimant have just cause for voluntarily leaving?

[12] Yes; I find that the Claimant had just cause for voluntarily leaving her job.

[13] The parties do not agree that the Claimant had just cause for voluntarily leaving her job when she did.

[14] The law says that there is a disqualification from getting benefits if you left your job voluntarily and you did not have just cause.¹ Having a good reason for leaving a job is not enough to prove just cause.

[15] You have just cause to leave if, given all the circumstances, you had no reasonable alternatives to quitting your job when you did.² This means you had no reasonable choices

¹ This is set out at s 30 of the *Employment Insurance Act*.

² *Canada (Attorney General) v White*, 2011 FCA 190, at para 3, and s 29(c) of the *Employment Insurance Act*.

instead of quitting when you did. It is up to the Claimant to prove this.³ The Claimant has to show that it is more likely than not that she had no reasonable alternatives but to leave when she did. When I decide this question, I have to look at all the circumstances that existed at the time that the Claimant quit.

[16] The Commission says that the Claimant may have been dissatisfied with her job but she did not have just cause to quit. She had reasonable alternatives to leaving when she did. They say she could have taken stayed working until she found other suitable work.

[17] A list of circumstances is to be considered when deciding if there is just cause to voluntarily leave employment (subsection 29(c), *Employment Insurance Act (EI Act)*).

[18] I find that the Claimant had just cause to leave her employment due to harassment, antagonism with her supervisor when she is not primarily responsible for the antagonism and undue pressure by her employer placed upon her to leave her employment (subsection 29(c)(i),(x) and (xiii), *EI Act*).

[19] The Claimant quit her temporary placement job at an optometry business due to harassment, intimidation and bullying by management and other staff. Although she had only worked there for about 1 month, the work environment became toxic to the point it was intolerable for her and she felt that she had no reasonable alternative but to leave her employment. Another employee of the business confirmed in an email exchange with the Claimant that the workplace was toxic.

[20] The Claimant describes her workplace environment as “*intolerable*” and she outlines numerous incidences of harassing conduct by staff and management, antagonism with a supervisor and undue pressure by her employer placed upon her to leave, including:

- She had a shortened training program which she found inadequate to properly perform her job and when she asked for help she was ignored and bullied. She felt that management did not support her;

³ *Canada (Attorney General) v White*, 2011 FCA 190, at para 3.

- She was monitored by other staff and she felt that they were building a case to bring to management to get rid of her for work performance issues so that a younger staff member could fill a regular job position in favor of her;
- She was subjected to insulting comments by other staff and management. On one occasion she was singled out as trying to look younger by her hair color and clothing. She filed a Formal Complaint of age-related harassment and discrimination with????? As a result of her treatment at the workplace;
- She was shunned and ignored by other staff and management during work breaks;
- The work environment was hostile due to in-fighting between staff at the employer's 3 business locations;
- She was frequently pinched and poked by her supervisor and felt intimidated;
- Shortly before she provided a resignation email to her employer, she was given a written warning about her job performance and verbally was made to feel unwelcome and that her termination from employment was imminent;
- In her resignation email to her employer, the Claimant advised them that she was quitting because she felt ignored, intimidated, uncomfortable and excluded.

CONCLUSION

[21] I find that the Claimant is not disqualified from collecting EI benefits. She had just cause to voluntarily leave her employment when she did not have reasonable alternatives having regard to all the circumstances. This means that the appeal is allowed.

Glen J. Johnson
Member, General Division - Employment Insurance Section

HEARD ON:	January 30, 2020
METHOD OF PROCEEDING:	In Person
APPEARANCES:	No one appeared